

1 The Honorable David G. Estudillo
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

WILL CO. LTD. a limited liability company
organized under the laws of Japan,

Plaintiff,

vs.

KAM KEUNG FUNG, aka 馮錦強, aka
FUNG KAM KEUNG, aka FUNG KAM-
KEUNG, aka KUENG FUNG, aka KEUNG
KAM FUNG, aka KAM-KEUNG FUNG, aka
KEVIN FUNG, an individual; FELLOW
SHINE GROUP LIMITED, a foreign company,
and DOES 1-20, d/b/a AVGLE.COM,

Defendants.

Case No.: 3:20-cv-05666-DGE

PLAINTIFF'S MOTION FOR RELIEF
OF DEADLINES RE: PLAINTIFF'S
AMENDED RESPONSE TO MOTION
TO DISMISS

NOTE ON MOTION CALENDAR:
October 29, 2021

COME NOW, Plaintiff Will Co. Ltd ("Will Co") by and through its undersigned
counsel, file this Motion to for Relief from Deadline Re: Plaintiff's Amended Response to
Motion to Dismiss.

I. INTRODUCTION AND FACTS

On or about July 8, 2020, Plaintiff filed this action as a John Doe lawsuit, alleging
copyright infringement on the web site avgle.com, with the owners and operators of the
website then unknown. Dkt. No. 1. To discover the identity of the site owners/operators,
Plaintiff filed a motion for early discovery, which was granted by the Court on August 3, 2020.

PLAINTIFF'S MOTION FOR RELIEF OF DEADLINE
TO FILE AMENDED RESPONSE TO MOTION TO
DISMISS - 1 [NO. 3:20-cv-05666 DGE]

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1 Dkt. No. 4 and 7. Thereafter, Plaintiff served subpoenas on permitted entities. These
 2 subpoenas resulted in the discovery of Kam Keung Fung (“Fung”) and Fellow Shine Group
 3 Limited (“Fellow Shine”). On or about November 12, 2020, Plaintiff filed a First Amended
 4 Complaint naming Fung and Fellow Shine as defendants. Dkt. No. 8.

5 Simultaneous with the First Amended Complaint, Plaintiff filed a Motion for Leave For
 6 Alternative Service. Dkt. No. 9. Leave was granted on November 16, 2020. Dkt No. 13.
 7 Plaintiff filed for clerk issue of summon, issued on November 18, 2020. Dkt. No. 19.
 8 Defendants were served with the summons and First Amended Complaint.

9 Defendants filed a motion to dismiss for lack of personal jurisdiction on December 24,
 10 2020. Dkt. No. 23. Plaintiff timely filed its Opposition to the Motion to Dismiss on January
 11 25, 2021. Dkt. No. 28. Therein, Plaintiff requested jurisdictional discovery if the Court found
 12 jurisdiction could not be determined based upon available submissions. Defendants timely
 13 filed their Reply on February 5, 2021. Dkt. No 35.

14 On July 19, 2021, the Court issued an order finding that jurisdiction could not be
 15 determined on current submissions but granted Plaintiff jurisdictional discovery. The Court
 16 granted Plaintiff 90 days to conduct discovery and file an amended response to the motion to
 17 dismiss. Dkt. No. 43.

18 On August 11, 2021, Plaintiff served Defendant Kam Keung Fung and Defendant
 19 Fellow Shine Group with discovery requests, including interrogatories and requests for
 20 production for each. Defendants requested a short extension of the deadline, which was agreed
 21 to, and timely provided responses to the discovery requests on September 14, 2021.
 22 *Declaration of Spencer D. Freeman ISO Plaintiff's Motion for Relief of Deadline* (“Decl. S.
 23 Freeman”), p 2, ¶¶ 2-3.

24 On September 24, 2021, after review of the discovery responses, Plaintiff’s counsel
 25 requested a CR 37 conference with Defendants’ counsel regarding aspects of the production
 26 which Plaintiff deems deficient. Respective counsel conferred on the discovery responses on

1 September 30, 2021. The result of the discovery conference was that a motion to compel
2 would need to be filed. However, it was also agreed that one aspect of the responses needed to
3 be clarified in order to ensure proper issues relayed to the Court in a motion to compel. As of
4 the date of this filing, Defendants' counsel is still working with Defendants on this
5 clarification. *Id.*, p 2, ¶¶ 4-7.

6 Plaintiff cannot draft an amended response to the motion to dismiss absent a ruling on a
7 motion to compel specific to responses to jurisdictional discovery. Plaintiff is waiting for
8 clarification on the responses to the discovery requests in order to file an accurate and specific
9 motion to compel. As a result, Plaintiff cannot now meet the current deadline of October 19,
10 2021 to file an amended response. *Id.*, p 2, ¶¶ 8-10.

11 Plaintiff's counsel has conferred on the issue of continuing the October 19, 2021
12 deadline with Defendants' counsel. Defendants' counsel has not yet been able to respond to
13 this request. *Id.*, p 3, ¶ 11.

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15 **II. RELIEF REQUESTED**

16 Plaintiff seeks relief of the current deadline of October 19, 2021 to file an amended
17 response to the motion to dismiss of 60 days, allowing for time to file a motion to compel, the
18 court to consider the motion, Defendants to comply if so ordered, and Plaintiff to draft an
19 amended response.

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21 **III. ARGUMENT**

22 The parties have cooperated with regard to jurisdictional discovery granted by the Court.
23 There is a current disagreement with regard to what is properly required to be disclosed in
24 response to the discovery requests, which needs to be resolved by the Court.

25 As result of the jurisdictional discovery issue, Plaintiff has been unable to draft an
26 amended response to the motion to dismiss. Plaintiff awaits clarification on multiple responses

1 to discovery requests in order to file a focused motion to compel. This clarification should be
2 forthcoming soon, at which time the motion to compel can be filed.

3 For these reasons, Plaintiff cannot meet the deadline of October 19, 2021 to file its
4 amended response. Plaintiff requests a 60-day extension to the current deadline. This time
5 frame should be sufficient to permit clarification on several responses, Plaintiff to file a motion
6 to compel, the Court to consider the motion, Defendants to comply with an order of the court
7 should there be one, and Plaintiff to amend its response to the motion to dismiss.

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9 **IV. CONCLUSION**

10 For the reasons stated herein, Plaintiff requests a 60-day extension of the deadline to file
11 an amended response to the motion to dismiss, currently set for October 19, 2021.

12

13 DATED this 18th day of October 2021.

14 FREEMAN LAW FIRM, INC.

15 *s/ Spencer D. Freeman*

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